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Oceans and the law of the sea

Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its ninth meeting

Letter dated 25 July 2008 from the Co-Chairpersons of the Consultative Process addressed to the President of the General Assembly

Pursuant to General Assembly resolutions 54/33, 57/141 and 60/30, we were appointed as the Co-Chairpersons of the ninth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (hereinafter referred to as the "Consultative Process").

We have the honour to submit to you the attached report on the work of the Consultative Process at its ninth meeting, which was held at United Nations Headquarters from 23 to 27 June 2008. In accordance with paragraph 3 (h) of General Assembly resolution 54/33, and bearing in mind General Assembly resolutions 61/222 and 62/215, on oceans and the law of the sea, the ninth meeting agreed by consensus to a number of elements relating to maritime security and safety, the area of focus of the meeting, to be suggested to the General Assembly for consideration under the agenda item entitled "Oceans and the law of the sea", as set out in part A of the present report. A summary of the discussions held during the ninth meeting is presented in part B of the report, while part C contains information on additional issues that have been proposed for inclusion in the list of issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea.

We kindly request that the present letter and the report of the Consultative Process be circulated as a document of the sixty-third session of the General Assembly under the agenda item entitled "Oceans and the law of the sea".

(*Signed*) Lorraine (Lori) **Ridgeway**
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Part A

Agreed consensual elements to be suggested to the General Assembly for consideration under the agenda item entitled "Oceans and the law of the sea"

1. The ninth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea met from 23 to 27 June 2008 and, pursuant to General Assembly resolutions 61/222 and 62/215, focused its discussions on the area of maritime security and safety.

2. On 27 June, the meeting commenced its formal consideration of the elements proposed by the Co-Chairpersons. Following the discussions on the subject, the meeting reached an agreement on elements relating to maritime security and safety, as set out below.

Agreed consensual elements

3. Maritime security and safety is essential to the role of oceans and seas in promoting the economic, social and environmental pillars of sustainable development, as provided in chapter 17 of Agenda 21, adopted by the United Nations Conference on Environment and Development, through, inter alia, international trade, economic development, poverty alleviation and environmental protection. It is essential to the well-being of people dependent on oceans and seas. The global nature of threats and challenges to the security and safety of oceans can only be effectively tackled through international cooperation and coordination.

4. The legal regime for maritime security and safety consists of a number of international instruments which operate within the framework of the Charter of the United Nations and the United Nations Convention on the Law of the Sea (hereinafter "the Convention"). A variety of international organizations, including regional and subregional organizations, play an important and active role in the development and implementation of this regime, in particular the International Maritime Organization (IMO).

5. It is proposed that the General Assembly:

(a) Recognize the need to increase participation in, and enhance the effective implementation and enforcement of, relevant international legal instruments, and encourage States to take necessary measures in that regard, emphasizing the need for capacity-building and the provision of assistance to developing States;

(b) Reaffirm that flag, port and coastal States all bear responsibility for ensuring the effective implementation and enforcement of international instruments relating to maritime security and safety, in accordance with international law, in particular the Convention, and that flag States have primary responsibility that requires further strengthening, including through increased transparency of ownership of vessels;

(c) Recognize that the legal regimes governing maritime security and maritime safety may have common and mutually reinforcing objectives that may be interrelated and interconnected, and encourage States to take this into account in their implementation;

(d) Welcome ongoing activities for capacity-building and encourage States and international financial institutions to provide additional funding for capacity-building programmes, including the transfer of technology, inter alia, through the IMO and other international organizations so as to address maritime security and safety needs of developing States.

6. The human element plays a critical role in promoting maritime safety and security. It is proposed that the General Assembly:

(a) Emphasize the need for further efforts to promote a culture of safety in the shipping industry and to address the shortage of adequately trained personnel, note the importance of the IMO process to review the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and urge the establishment of more education and training centres to provide the required training;

(b) Emphasize that security and safety measures should be implemented with minimal negative effects on seafarers and fishers, especially in relation to their working conditions;

(c) Invite all States to ratify or accede to the International Labour Organization (ILO) Maritime Labour Convention of 2006, Work in Fishing Convention of 2007, and Seafarers' Identity Documents Convention (Revised) of 2003, and to effectively implement those Conventions, emphasizing the need to provide technical cooperation and assistance in that regard;

(d) Welcome the ongoing cooperation among the Food and Agriculture Organization of the United Nations (FAO), IMO and ILO in relation to the safety of fishers and fishing vessels, and underline the urgent need for continued work in that area, and take note of discussions at FAO on the merit of an international plan of action in this area.

7. The provision of assistance to persons in distress at sea is a fundamental obligation under international law, which must continue to be observed in order to fulfil the humanitarian imperative to prevent loss of life at sea, regardless of nationality or status, or the circumstances in which the persons are found. Bearing in mind the existing commitments in General Assembly resolution 62/215, it is proposed that the General Assembly:

(a) Welcome the ongoing cooperation and coordination among the members of the inter-agency group on the treatment of persons rescued at sea;

(b) Welcome also the ongoing work of IMO in relation to disembarkation of persons rescued at sea and note in this regard the need to implement all relevant international instruments;

(c) Recognize that all States must fulfil their search and rescue responsibilities, and the ongoing need for IMO and other relevant organizations to assist, in particular, developing States both to increase their search and rescue capabilities, including through the establishment of additional rescue coordination centres and regional subcentres, and to take effective action to address, to the extent feasible, the issue of unseaworthy ships and small craft within their national jurisdiction;

(d) Call upon States to continue to cooperate in developing comprehensive approaches to international migration and development, including through dialogue on all its aspects.

8. With reference to maritime security, it is proposed that the General Assembly:

(a) Recall that all actions taken to combat threats to maritime security must be in accordance with international law, including the Convention and other relevant international legal instruments while respecting maritime jurisdiction, and reaffirm that the sovereignty and territorial integrity and political independence of States, as well as the principles of non-use of threat or use of force, sovereign equality of States and freedom of navigation, should be respected;

(b) Recognize the crucial role of international cooperation at the global, regional, subregional and bilateral levels in combating threats to maritime security in accordance with international law, including through enhanced sharing of information among States relevant to the detection, prevention and suppression of such threats, and the prosecution of offenders with due regard to national legislation, and the need for sustained capacity-building to support such objectives.

9. With respect to piracy and armed robbery against ships, and bearing in mind General Assembly resolution 62/215, it is proposed that the General Assembly:

(a) Emphasize the importance of prompt reporting of incidents to enable accurate information on the scope of the problem of piracy and armed robbery against ships and, in the case of armed robbery, by affected vessels to the coastal State, underline the importance of effective sharing of information with States potentially affected by incidents of piracy and armed robbery against ships, and take note of the important role of IMO and the Information Sharing Centre of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia in this regard;

(b) Call upon States to take appropriate steps under their national law to facilitate the apprehension and prosecution of those who are alleged to have committed acts of piracy;

(c) Express concern regarding the problem of piracy and armed robbery at sea, in particular off the coast of Somalia, and note recent efforts to address this problem at the global and regional levels, including Security Council resolution 1816 (2008) which affirms that the authorization provided applies only with respect to the situation in Somalia and shall not affect the rights or obligations or responsibilities of Member States under international law, including any rights or obligations under the Convention, with respect to any other situation and underscores in particular that it shall not be considered as establishing customary international law.

10. With respect to transnational organized crime, it is proposed that the General Assembly:

(a) Recognize that transnational organized criminal activities threaten legitimate uses of the oceans, the economies, societies and natural environments of States, and endanger the lives of people at sea;

(b) Note that transnational organized criminal activities are diverse and may be interrelated in some cases, and that criminal organizations are adaptive and take

advantage of the vulnerabilities of States, in particular coastal and small island developing States in transit areas, and call upon States and relevant intergovernmental organizations to increase cooperation and coordination at all levels to detect and suppress trafficking and smuggling in accordance with international law;

(c) Recognize the considerable need for the provision of sustained capacity-building assistance, including financial and technical assistance, by relevant international organizations and donors to developing States, with a view to strengthening further their capacity to take effective measures against the multiple facets of international criminal activities at sea in line with the relevant international instruments, including the United Nations Convention against Transnational Organized Crime and the Protocols thereto;

(d) Recognize the importance of enhancing international cooperation at all levels to fight transnational organized criminal activities, including illicit traffic in narcotic drugs and psychotropic substances, smuggling of migrants, trafficking in persons and criminal activities at sea falling within the scope of the United Nations Convention against Transnational Organized Crime;

(e) Recognize that illegal fishing poses a threat to the economic, social and environmental pillars of sustainable development, and that some countries have stated that, in their respective experience, such illegal activities are found to be run by transnational organized crime, which suggests that an in-depth dialogue on that perceived trend be carried out with relevant stakeholders at all levels, with a view to producing a multidisciplinary study on the issue.

11. With specific reference to maritime safety, it is proposed that the General Assembly:

(a) Recognize that international shipping rules and standards adopted by IMO in respect of maritime safety, efficiency of navigation and the prevention and control of marine pollution, as complemented by best practices of the shipping industry, have led to a significant reduction of maritime accidents and pollution incidents, and encourage all States to participate in the Voluntary IMO Member State Audit Scheme;

(b) Recognize that maritime safety can also be improved through effective control by port States, strengthening of regional arrangements and increased coordination and cooperation among them, and increased information-sharing, including between the safety and security sectors;

(c) Acknowledge the potential environmental and economic impacts of maritime accidents on coastal States, in particular those relating to the transport of radioactive materials, emphasize the importance of effective liability regimes in that regard, and recall paragraphs 58 and 59 of General Assembly resolution 62/215.[1]

[1] One delegation, while not wishing to block consensus, dissociated itself from the paragraph. Several other delegations stated that they had joined the consensus with respect to paragraph 11 (c) on the understanding that it did not add anything new or change the meaning of what was stated in General Assembly resolution 62/215, but was only intended to add a reference to "coastal States".

Part B

Co-Chairpersons' summary of discussions

Agenda items 1 and 2: Opening of the meeting and adoption of the agenda

12. The following official documentation was available to the meeting: (a) report of the Secretary-General on oceans and the law of the sea (A/63/63); (b) format and annotated provisional agenda of the meeting (A/AC.259/L.9); and (c) report of the Office of the United Nations High Commissioner for Refugees (UNHCR), entitled "The treatment of persons rescued at sea: conclusions and recommendations from recent meetings and expert round tables convened by the Office of the United Nations High Commissioner for Refugees" (A/AC.259/17).

13. The meeting was opened by the Co-Chairpersons, Paul Badji (Senegal) and Lori Ridgeway (Canada), who, in their introductory statements, provided an overview of the main aspects in the area of maritime security and safety and outlined the content of the agenda, as well as their proposals on the organization of work. They also called attention to the voluntary trust fund established for the purpose of assisting developing countries, in particular the least developed countries, small island developing States and landlocked States, to attend meetings of the Consultative Process and strongly encouraged States to contribute to the fund which, as of the ninth meeting, was devoid of funds.

14. Introductory remarks were also made by the Under-Secretary-General for Legal Affairs, the Legal Counsel, who noted the contribution of the Consultative Process in informing and facilitating the discussions of the General Assembly. In regard to maritime security and safety, the Legal Counsel underlined in particular the importance of the human element in that context and recalled that the ultimate beneficiary of the international legal order should always be the individual.

15. Following these introductory remarks, the meeting adopted the format and annotated provisional agenda of the ninth meeting and approved the organization of work proposed by the Co-Chairpersons.

16. The meeting was attended by representatives of 102 States, 20 intergovernmental organizations and other bodies and 15 non-governmental organizations.

Agenda item 3: General exchange of views on areas of concern and actions needed, including on issues discussed at previous meetings

17. Item 3 was divided into two plenary sessions. Delegations focused their interventions on the area of focus and exchanged views on other issues, for example, those discussed at previous meetings (see paras. 24-26 below).

18. The discussions held on the area of focus during both plenary meetings and panel segments are summarized in paragraphs 34 to 128 below.

19. Discussions also focused on the report of the Secretary-General on oceans and the law of the sea and the Consultative Process.

20. A number of delegations expressed their appreciation to the Secretary-General for his report, as well as for the work of the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, which acted also as the secretariat of the

Consultative Process. In particular, they indicated that the section in the report concerning maritime security and safety provided a very useful basis for the discussions. A number of delegations referred to specific parts of the report during their interventions (see paras. 40, 84 and 107).

21. The ninth meeting marked the end of the third three-year cycle of the Consultative Process and, since the General Assembly would review the effectiveness and utility of the Process at the sixty-third session, a number of delegations made comments in that regard. Several delegations expressed strong support for the contribution of the Consultative Process in facilitating the work of the General Assembly in its annual review of developments in ocean affairs and the law of the sea. The value of an open, transparent and integrated debate on global issues that were often complex and cross-cutting was highlighted. The open-ended and inclusive participation in the meetings of the Consultative Process was underlined by some delegations as a key factor in its success. Several delegations expressed support for the renewal of the mandate of the Consultative Process and suggested future topics that it might address. One delegation observed that the early selection of topics permitted thorough preparation for meetings.

22. Several delegations recalled that the General Assembly, in its resolution 54/33, had established the Consultative Process consistent with the legal framework provided by the Convention and the goals of chapter 17 of Agenda 21, and had endorsed the recommendations of the Commission on Sustainable Development on international coordination and cooperation in relation to oceans and seas. They argued that if the mandate of the Consultative Process were to be renewed, the meeting should concentrate on issues that were relevant to sustainable development. Some delegations suggested that the mandate should be reviewed on an annual basis. One delegation noted that since the Commission was currently scheduled to review oceans and seas in 2014, the mandate of the Consultative Process should be renewed at least until then.

23. Several delegations stated that the work of the Consultative Process should not pre-empt a comprehensive debate on the same issues during the General Assembly and that the focus of the Process should be on recommending issues rather than specific language for General Assembly resolutions. Some delegations noted that the emphasis in the Consultative Process should not be on the negotiation of elements, but rather on an exchange of views. Other delegations emphasized that the work of the Consultative Process should not duplicate the work done in other forums

24. Other issues raised during the discussion of agenda item 3 included sustainable fisheries and climate change. The meeting was informed of the adoption of the Vava'u Declaration on Sustainable Fisheries by the Pacific Islands Forum at its thirty-eighth meeting, held in Tonga on 16 and 17 October 2007; the commitment of the Pacific Islands Forum to cooperate at the regional level to develop best practice guidelines for the South Pacific Regional Fisheries Management Organization, in keeping with the call by the General Assembly in resolution 61/105 for measures to regulate bottom fisheries; the decision of the States parties to the 1982 Nauru Agreement concerning Cooperation in the Management of Fisheries of Common Interest to apply management measures to bigeye and yellowfin tuna stocks; and the continued problems encountered by the island States in the Pacific in the monitoring, control and surveillance of their exclusive economic zones.

25. Several delegations underlined the serious threats resulting from the impact of climate change, in particular small island developing States, and proposed that the General Assembly take a more direct approach in addressing those threats, including promoting the use of the precautionary principle.

26. In addition to climate and oceans, several delegations called for action by the General Assembly in regard to the following issues: shipment of nuclear material; illegal, unreported and unregulated fishing; development aspirations of small island developing States; competency of regional fisheries management organizations; by-catch as a food security issue; and marine and coastal conservation areas.

Area of focus: Maritime security and safety

27. Various aspects of maritime security and safety were addressed during the course of five panel segments, as well as in the plenary. Abstracts of most panel presentations were posted on the website of the Division for Ocean Affairs and the Law of the Sea in advance of the meeting.[2] Each of the panel segments comprised four or five presentations, followed by discussions during which delegations requested clarifications of the panellists and/or made statements regarding the presentations or their implications.

1. Panel presentations

28. The first segment, an overview of threats to maritime security, their impacts and responses thereto, with a focus on piracy and armed robbery against ships, demonstrated that information-sharing and cooperative arrangements among States can be effective tools in dealing with incidents of piracy and armed robbery against ships. Stuart Kaye, Professor, Chair in Law, University of Melbourne, Australia, introduced the threats to maritime security and possible responses under the international legal instruments. Pottengal Mukundan, Director of the International Maritime Bureau, International Chamber of Commerce, provided information on the scope of the problem of piracy and armed robbery against ships, some recent trends, and the role of the Piracy Reporting Centre of the Bureau in providing information on incidents of piracy and armed robbery against ships to coastal and flag States and international organizations. Yoshiaki Ito, Executive Director of the Information Sharing Centre, Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia, explained the role of the Centre in combating piracy and armed robbery against ships in South-East Asia through the sharing of information, capacity-building and cooperative arrangements among States in the region. Arif Havas Oegroseno, Director for Political, Security and Territorial Treaties, Department of Foreign Affairs, Indonesia, in his presentation on armed robbery against ships at sea in the Straits of Malacca and Singapore described Indonesia's experience in cooperating with other littoral States in repressing such acts. Nancy Karigithu, Director, Maritime Authority, Kenya, provided the Kenyan perspective on combating piracy and armed robbery against ships, highlighting the situation off the coast of Somalia and ongoing regional cooperation efforts, as well as the successful prosecution by the Kenyan Government of individuals engaged in acts of piracy.

[2] Available panel presentations and abstracts thereof can be accessed at www.un.org/Depts/los/consultative_process/9thmeetingpanel.htm.

29. The second segment, on the prevention and suppression of transnational organized crime, demonstrated that transnational organized criminal activities were diverse and might be interrelated, and that criminal organizations were adaptive and took advantage of the vulnerabilities of States. Ashley Roach, Office of the Legal Adviser, Department of State, United States of America, provided an overview of the current threats to maritime safety and security, as illustrated by activities undertaken by transnational organized criminal groups, and proceeded to outline the main applicable multilateral legal instruments, as well as bilateral agreements, to which the United States was a party. Anthony Stafford Franklin, Director, Institute of Marine Affairs, Trinidad and Tobago, presented an overview of the activities of transnational organized criminal groups and related threats, the challenges that they posed to small island developing States, and the responses to those threats pursued at the national level by Trinidad and Tobago and at the regional level through the Caribbean Community and other cooperative initiatives. Ana Sánchez Ruiz, Policy Officer in the Directorate General for Justice, Freedom and Security, European Commission, explained that the bulk of seaborne clandestine migration towards the European Union had been fuelled and facilitated by transnational organized criminal groups. The European Union was, she stated, addressing the issue through integrated management of its maritime external borders based on, inter alia, joint border control operations; international cooperation with and provision of assistance, including capacity-building and technical assistance, to relevant third party States; and cooperation on the return of migrants and facilitation and promotion of legal migration. Gunnar Stølsvik, Senior Adviser in the Department of Marine Resources and Environment, Ministry of Fisheries and Coastal Affairs, Norway, explained how large-scale illegal, unreported and unregulated fishing could often be conducted by global criminal networks operating across different jurisdictions and cited Norwegian analyses that showed that fishing vessels, cargo vessels and other ships had often collaborated in the commission of various crimes at sea.

30. The third segment, on experiences and challenges in maritime safety, highlighted the role of IMO as the competent organization in the adoption of international rules and standards for shipping engaged in international trade, and considered challenges in implementation and enforcement of those rules and standards from the perspectives of flag, port and coastal States. Koji Sekimizu, Director of the Maritime Safety Division, IMO, provided an overview of IMO activities in relation to maritime safety issues and described how it had responded to emerging challenges, expanded its scope of activities and created an effective forum to establish international shipping rules and regulations. Noting also the activities of IMO in the area of maritime security, he highlighted that the major challenge facing the shipping industry was maritime training and education and encouraged the establishment of centres of excellence. Simon Bennett, Secretary of the International Chamber of Shipping (ICS), described the role of the shipping industry in the development of maritime safety regulations and highlighted the efforts of ICS to develop best practice and guidelines to complement IMO safety regulations. He underlined that too much regulation could be counter-productive and stressed the need for global rules and for a genuine culture of safety, as well as the importance of implementation and enforcement by flag States. Walter Alfredo Guido, Liaison Officer with the Argentine Coast Guard, representing the Secretariat of the Viña del Mar Agreement on Port State Control, described the role of port States in implementing and enforcing safety rules and standards and emphasized the need for cooperation and coordination at the regional level. He explained how inspections of

foreign vessels in ports in the region had been harmonized through the Viña del Mar Agreement and how control measures had been balanced with the need not to restrict the mobility of ships. Majed Sahel Mohammed Mastoor, Executive Officer, Training Institute of the Coast Guard, Yemen, shared his country's experiences and challenges and provided an overview of the maritime security and safety activities of the Coast Guard. He underscored the difficulties caused by lack of sufficient resources and the importance of capacity-building and training. Brendan McRandle, Head of Section, Office of Transport Security, Department of Infrastructure, Transport, Regional Development and Local Government, Australia, described the all-hazards approach to maritime safety and security in the Australian offshore oil and gas industry. He emphasized that approaches to security could benefit from lessons learned to enhance safety, drawing on the experience of developing a culture of safety and managing risk and vulnerability

31. The first part of segment 4, focusing on people at sea, addressed the safety and security issues that confronted seafarers and fishers. Cleopatra Doumbia-Henry, Director of the International Labour Standards Department, International Labour Organization (ILO), described recent ILO initiatives aimed at ensuring decent working conditions for seafarers and fishers, in particular the Maritime Labour Convention, 2006, the Work in Fishing Convention, 2007, and the Seafarers' Identity Documents Convention (Revised), 2003, and underlined the importance of their widespread ratification and effective implementation. Jon Whitlow, Secretary of the Seafarers, Fisheries and Inland Navigation Sections, International Transport Workers' Federation, emphasized that problems of recruitment and retention of seafarers and fishers had arisen due to, inter alia: faster turnarounds in port; increased social isolation as a result of problems with shore leave and access to facilities; risk of criminalization in the event of accidents; continuing cases of abuse and abandonment; piracy and armed robbery; non-payment of wages; dangers associated with substandard shipping; and inadequate flag State control. He explained that this had resulted in reduced manning levels and associated safety and other risks, and had threatened the viability of shipping in the future.

32. The second part of the fourth segment addressed the treatment of persons rescued at sea. Anja Klug, Senior Legal Officer in the Division of International Protection Services, UNHCR, provided an overview of the scale of international migration in some areas of the Mediterranean and the Gulf of Aden, and the key challenges associated with such migration. She highlighted the main conclusions and recommendations from recent meetings and expert round-table meetings convened by UNHCR (see A/AC.259/17). Aïcha Belarbi, Professor and Researcher, Mohammed V University, Rabat, Morocco, focused on migration by sea in the Mediterranean Sea, in particular the level of clandestine migration by sea, the threat it posed to the safety of life at sea and the responses of destination States. She outlined the complexities and challenges relating to the development of long-term solutions and emphasized the need for the reinforcement of dialogue and assistance programmes.

33. The fifth segment, on enhancing cooperation, coordination and integration and increasing capacity-building in the area of maritime security and safety, offered an opportunity to examine the benefits of pooling efforts and resources to address transnational issues. Brad Kieserman, Chief, Operations Law Group, United States Coast Guard, outlined some initiatives through which the United States was fostering cooperation, coordination and integration among relevant stakeholders in

maritime security and safety. He highlighted the importance of that collaborative approach in addressing threats to security and safety from non-State actors. Magnus Teye Addico, Secretary General of the Maritime Organization for West and Central Africa (MOWCA), highlighted the proposed establishment of the subregional integrated coast guard network to address key maritime security and safety challenges in West and Central Africa, including piracy and armed robbery, oil theft, stowaways, clandestine migration, smuggling of weapons and drugs, maritime accidents, marine pollution and illegal exploitation of marine resources. Arif Havas Oegroseno, Director for Political, Security and Territorial Treaties, Department of Foreign Affairs, Indonesia, highlighted the security challenges in the Association of Southeast Asian Nations (ASEAN) region. He described in particular the work of the ASEAN Regional Forum, which adopted a holistic approach to assessing maritime security threats and provided a forum for dialogue and cooperation on maritime security, which was followed up by tactical and operational measures. Marc Mes, Chief, Marine Security Policy (International)/Operations, Transport Canada, and Chairman of the Maritime Security Sub-Group of the Maritime Experts Group, Asia Pacific Economic Cooperation (APEC) Transportation Working Group, outlined international maritime security efforts of Canada in establishing international maritime transportation security standards, implementing capacity-building initiatives, including through relevant intergovernmental organizations, (e.g., IMO), and sharing maritime security best practice. He also described the activities of APEC in capacity-building, the development of partnerships and the sharing of best practice through practical tools that are made widely available, including to international organizations, such as IMO and ILO.

2. Plenary and panel discussions

34. Several delegations highlighted the timeliness of the consideration of maritime security and safety by the Consultative Process, which had allowed for an integrated consideration of the issues that were otherwise dealt with by a number of intergovernmental organizations and bodies. Some delegations noted that, since maritime security and safety were addressed in other forums, the outcome of the ninth meeting should not pre-empt further discussion in those forums.

35. Delegations agreed that, as all States shared the benefits of safer and more secure oceans, they also shared in the responsibility for addressing major threats and challenges to maritime security and safety. Such threats were global in scope and could therefore only be effectively addressed through international cooperation among flag, port and coastal States.

36. A number of delegations noted the important role played by various international organizations in the ongoing development of the international legal framework for maritime security and safety and its implementation at the global, regional and subregional levels. In particular, the leading role played by IMO in the development of maritime security and safety instruments at the global level was highlighted. One delegation underlined the possible contribution of private operators.

37. Several delegations noted that the legal regimes for maritime security and safety shared common and mutually reinforcing objectives and that the two fields were interrelated and interconnected. Some delegations pointed out that an integrated approach to both maritime security and safety should be encouraged.

Others disagreed with such an approach. One delegation noted that combining maritime safety and security could complicate efforts to address the issues involved.

38. The need to strengthen the international legal framework was underlined by a number of delegations, which called for wider participation and increased implementation and enforcement of existing legal instruments. It was stressed that the main challenge facing the international community was enhancing the implementation of the international legal framework rather than its further development. In that connection, several delegations underlined the need for capacity-building to help address problems of implementation and enforcement (see para. 123). Several delegations highlighted the importance of combating threats to security and safety without excessively restricting legitimate activities at sea.

39. The importance of maritime security and safety for commerce, transportation and sustainable development was underlined by several delegations, which emphasized the need to include considerations of sustainable development and capacity-building in all aspects of maritime security and safety. They stated that sustainable development should be used at all times as the guide to strengthening the implementation of maritime security and safety measures, capacity-building and cooperation (see para. 22 above). It was noted that the realization of security was directly linked to the right of development and poverty alleviation and that attainment of the goal of sustainable development would ultimately involve the strengthening of maritime safety and security.

(a) Overview of threats to maritime security, their impacts and responses thereto, with a focus on piracy and armed robbery against ships

40. The absence of an agreed definition of maritime security was noted by some delegations and various views were expressed on whether some of the specific threats highlighted in the report of the Secretary-General (A/63/63) should be deemed maritime security issues. Some delegations considered that the topic should not be viewed too broadly. As regards paragraph 40 of the report, some delegations considered that placing a broad and diverse range of issues under the general notion of "human security" deprived them of their specific context. Decontextualizing them could lead to inadequate responses that might address only their effects but not their causes. Some delegations noted that the notion of human security had not received general agreement in the United Nations and that the Consultative Process should not be used to legitimize concepts and ideas which had not been thoroughly discussed and agreed upon. Other delegations expressed support for the broad approach to maritime security in the Secretary-General's report (see also para. 70 below).

41. A number of delegations noted that the international legal regime for maritime security consisted of various international instruments, all operating within the framework of the Charter of the United Nations and the Convention. In that regard, particular emphasis was placed on the need to consider the jurisdiction of coastal States, the rights and duties of flag States and the principle of freedom of navigation, as well as the principles of sovereign equality, territorial integrity and political independence of States.

42. Some delegations expressed the view that the negative economic impacts on developing countries of new security measures, such as the International Ship and Port Facility Security (ISPS) Code and the Container Security Initiative, should be

addressed (see also para. 92). Other delegations highlighted the potential negative effects of maritime security activities on the marine environment, such as the use of active sonar.

43. Some delegations emphasized the need for States to develop maritime domain awareness/situational awareness and referred to the importance of vessel monitoring systems, such as the Automatic Identification System (AIS) and the Long-range Identification and Tracking (LRIT) system. It was noted that fishing vessels were not covered by the 1974 International Convention for the Safety of Life at Sea and therefore fell outside the scope of those monitoring systems. Some delegations noted with appreciation the ongoing efforts at IMO to develop guidelines on the security aspects of the operation of ships that did not fall within the scope of that Convention and the ISPS Code.

44. The potential dangers posed by terrorist acts against ships and other maritime interests were highlighted by some delegations which cited as an example the attack on the oil tanker, Lindbergh. Some delegations underlined the importance of the ISPS Code and chapter XI-2 of the International Convention for the Safety of Life at Sea in that regard, as well as the 2005 Protocols to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

45. Some delegations underscored the danger posed to maritime security by illicit trafficking of small arms and weapons of mass destruction. The need for more cooperative initiatives aimed at stemming the trafficking of small arms was emphasized by some delegations. It was noted by one delegation that, once arms exporting countries become more aware of the potential harmful effects of the circulation of small arms, they would be more willing to assist in combating illicit trafficking. Referring to the illicit trafficking of weapons of mass destruction some delegations welcomed the cooperation of an increasing number of States through the Proliferation Security Initiative and called upon other States to consider joining that effort. Other delegations stated that the Initiative should not be supported since it had been negotiated outside the framework of the United Nations and, in their view, contravened the Convention, in particular its provisions relating to freedom of navigation and the right of innocent passage. That view was not shared by other delegations. One delegation underlined that the total prohibition and elimination of weapons of mass destruction was the best way to combat their proliferation.

46. Another delegation noted the potential hazards caused by attacks on its whaling vessels by non-governmental organizations and called for those responsible to be appropriately punished and for the international community to take effective measures to prevent similar incidents occurring in the future.

Piracy and armed robbery against ships

47. The deleterious effects of piracy and armed robbery against ships were widely recognized by delegations. It was noted that such acts threatened seafarers, the security of navigation and the marine environment, and also had the potential to disrupt the provision of humanitarian aid, fishing, tourism and marine scientific research. The alteration of navigational routes in order to bypass areas of suspected pirate activity also affected commerce.

48. While there had been an overall decrease in incidents of piracy and armed robbery in recent years, several delegations pointed to their increase in 2007 compared with 2006. Moreover, concern was expressed regarding the level of violence and use of powerful weapons in such incidents, as well as the rise in hostage-taking. The need for continued vigilance — even by those States that did not currently suffer from significant levels of piracy and armed robbery against ships — was underlined.

49. Several delegations highlighted the need to address the conditions conducive to piracy and armed robbery, such as local or regional conflicts, the absence of effective State authority and poor public governance. Several delegations pointed out that dealing effectively with the land-based causal factors for piracy and armed robbery at sea had led to a decrease in the number of incidents.

50. The need for the fullest possible cooperation in the repression of piracy on the high seas or in any area outside the jurisdiction of any State, as required under the Convention, was generally emphasized. Several delegations underscored the distinction between "piracy" and "armed robbery" against ships. With regard to acts of armed robbery, some delegations underlined the need for the adoption of measures, through a coastal State's national legislation, to address such acts, as defined in the IMO Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships. They observed that international support to combat armed robbery against ships should only be considered in the context of supporting a State's national legislation.

51. Several States called upon coastal States to exercise effective control over their territorial waters. It was contended that, where a coastal State was unable to maintain such control, the international community should work together with that State, in a manner consistent with international law, to avoid the creation of a safe haven for pirates. Some delegations observed that the inability of States to control piracy and armed robbery had led to similar incidents being perpetrated elsewhere. It was noted that the deployment of naval vessels in a region in which piracy had occurred had often led to a decrease in the number of incidents. Several delegations also pointed out that efforts to combat piracy and armed robbery could have broader benefits in combating other criminal activities at sea. It was noted that flag States had the responsibility to ensure that vessels were adequately crewed and equipped to address incidents of piracy and armed robbery.

52. Several delegations noted that greater cooperation was needed among States to deal effectively with suspected pirates after they were apprehended. They stated that the prosecution of suspected pirates was complicated by the reluctance or inability of some States to try individuals for actions which had occurred outside their jurisdiction, and that States needed to make appropriate provision in their domestic legal systems to prosecute suspected offenders. Those delegations called upon coastal States to review their national legislation with a view to ensuring that effective action could be taken in that regard. It was noted by some delegations that for small island developing States in particular the absence of such legislation was a key challenge. One delegation noted that prosecution was also often hampered by difficulties in securing evidence and testimony regarding alleged attacks. However, the experience of Kenya in adopting counter-piracy legislation and successfully prosecuting individuals accused of acts of piracy was highlighted.

53. Effective information-sharing and prompt reporting of incidents of piracy and armed robbery were stressed, both in regard to their significance in determining the scope of the problem and to effectively combating it. Since some masters of ships did not promptly report incidents for fear of having the ship detained, several delegations emphasized the need to encourage the timely reporting of incidents. The Piracy Reporting Centre of the International Maritime Bureau was recognized by several delegations for its excellent efforts in providing masters of ships with a single facility to which pirate attacks could be reported and in promptly disseminating that information to national law enforcement agencies in the nearest coastal State. However, one delegation, while recognizing the important role of the Piracy Reporting Centre, stressed that States had the primary role in combating piracy and armed robbery at sea and not non-governmental organizations.

54. It was stressed that cooperation at the regional level was very important. A number of delegations welcomed the work of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia in combating piracy and armed robbery at sea, including through the collection, analysis and dissemination of information, and took note of the positive results of those efforts in significantly reducing acts of piracy and armed robbery in the relevant area. It was noted that the Agreement's Information Sharing Centre constituted a framework for enabling cooperation among States in the Asian region, based on information-sharing, capacity-building and operational cooperation. One delegation called for more States in the Asian region to accede to the Agreement. A number of delegations regarded the Agreement as a possible model for multilateral cooperation in other regions; however, some delegations emphasized that every region had to be considered independently, taking into account regional specificities.

55. The representative of IMO pointed out that IMO was currently reviewing its guidelines on piracy and armed robbery against ships to take into account such developments as the Regional Agreement. Reference was made by several delegations to the United Nations World Maritime University, which provided a platform for law enforcement officials and policymakers to receive training and exchange information on addressing the problems of piracy and armed robbery.

56. Several delegations noted that increased cooperation in the Straits of Malacca and Singapore had resulted in a significant decrease in incidents of piracy and armed robbery against ships and thus provided a positive example for other areas. It was emphasized by several delegations that cooperative action must be consistent with international law and that measures must respect the sovereignty of States.

57. Other regional initiatives were also welcomed. It was noted that the integrated coast guard network planned by MOWCA would allow for pursuit of suspected pirates into the territorial sea of another State. Reference was also made by some delegations to the draft memorandum of understanding concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean, Gulf of Aden and Red Sea.

58. Delegations expressed concern over the increasing incidents of piracy and armed robbery against ships off the coast of Somalia, which had had a negative effect on all States in the region, on navigation and, in particular, on the provision of humanitarian aid. It was noted by some delegations that the lack of effective governance in Somalia had played a significant role in that regard.

59. A number of delegations welcomed the adoption by the Security Council of resolution 1816 (2008), on piracy and armed robbery against ships off the coast of Somalia, following the request of the Transitional Federal Government of Somalia. Several delegations noted the initiative of France, joined by Denmark and the Netherlands, to escort cargo ships to Somalia with military vessels, on the basis of bilateral agreements with flag States and the Transitional Federal Government of Somalia.

60. Other delegations stressed that the Security Council resolution applied only to piracy and armed robbery in Somalia and did not affect the rights, obligations or responsibilities of Member States under international law, including rights or obligations under the Convention, in respect of any other situation; they underscored in particular that it was not to be considered as establishing customary international law. The view was also expressed that the significance of the resolution was overstated as it only allowed that which would have already been permitted under international law and dealt more with the overall situation in Somalia rather than addressing piracy as such.

(b) Prevention and suppression of transnational organized crime

61. Several delegations emphasized that new and evolving transnational organized criminal activities, including illicit traffic in narcotic drugs and psychotropic substances, trafficking of small arms, smuggling of and trafficking in persons, and piracy and armed robbery against ships, could threaten maritime security and safety and, more broadly, the sovereignty, economic and social well-being and natural environment of States. There was, however, a divergence of views as to whether there was a potential link between illegal fishing and transnational organized crime (see paras. 69-73).

62. It was observed by several delegations that transnational organized criminal groups were adaptive and took full advantage of the vulnerabilities of States, which included their geography, level of integration into transportation networks, legislative and governance lacunae, inadequate sharing of information and intelligence, limited human and material resources and porous borders. The particular vulnerability of coastal States and small island developing States was emphasized, especially where such States were located in key transit areas. The failure of some flag States to exercise effective jurisdiction was also highlighted by some delegations as a contributing factor to transnational organized criminal activities.

63. Furthermore, it was noted by some delegations that transnational organized criminal activities were facilitated by offshore financial and corporate services which had to be taken into account as they served to mask beneficial ownership of assets and the proceeds of criminal activities, thereby complicating detection, interdiction and prosecution. It was underlined by several delegations that the proceeds of transnational organized criminal activities which, according to the International Monetary Fund, accounted for 2 to 5 per cent of global gross domestic product, represented enormous assets which were used to fund other, often interconnected, activities undertaken by the criminal groups.

64. Because of the pervasive and global nature of transnational organized criminal groups and their activities, a number of delegations emphasized the need for responses which were adaptive, cooperative and coordinated at all levels. In that

regard, some delegations indicated that there was a shared responsibility of all States to combat transnational organized criminal activities. A number of delegations underlined the fundamental importance of respecting international law in current and future responses to such activities. Some delegations underlined the importance of taking regional specificities into account.

65. Delegations reiterated that the Convention had established the general legal framework for carrying out responses, and several also highlighted the relevance of the United Nations Convention against Transnational Organized Crime and its Protocols. Other legal instruments, including the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, were also highlighted. Several delegations noted that efforts should focus on implementing the international legal framework by means of national legislation, and the existing framework supplemented through bilateral and multilateral instruments as required, in order to facilitate extradition and prosecution.

66. Several delegations indicated that a wide range of responses was necessary to meet the challenges posed by the diversity — and sometimes interrelated nature — of the threats posed by transnational organized criminal activities. It was suggested by some delegations that such responses could also include increased information-sharing through, inter alia, regional intelligence and observation systems, so as to enhance States' awareness of the maritime domain.

67. Several delegations noted that regional, subregional and bilateral operational responses provided significant opportunities for developing States, particularly small island developing States, to meet the challenges presented by transnational organized criminal activities. Joint patrols and shiprider agreements were highlighted by some delegations as cooperative approaches which were yielding significant success (see also paras. 111-117 below).

68. Several delegations indicated that responses should also take into account, and seek to address, economic development aspects as root causes and drivers of transnational organized crime. The need for technical cooperation and capacity-building programmes to combat transnational organized criminal activities was generally acknowledged.

69. Divergent views were expressed on the question of whether there was a potential link between illegal, unreported and unregulated fishing and transnational organized crime. It was generally recognized that illegal, unreported and unregulated fishing was a management problem which negatively affected the livelihood, economy and marine ecosystems of States, thereby hampering sustainable development. Global and regional efforts aimed at combating and suppressing the activity had been undertaken and should continue in the relevant forums, in particular FAO and regional fisheries management arrangements. Emphasis was placed on the need for flag and port States to effectively meet their obligations, an assessment of their performance, the establishment of a global register of fishing vessels and for increased cooperation among coastal, flag and port States, among others.

70. Differing views were expressed as to whether illegal fishing constituted a maritime security issue. Several delegations emphasized that illegal fishing, in particular of a large-scale and/or organized nature, constituted a real security threat to their countries and regions. It was noted that illegal fishing had significant effects

on a range of sectors, including shipping and fishing, and often threatened the safety of seafarers. Other delegations stressed that illegal fishing was sometimes linked to other maritime security threats such as illicit traffic in narcotic drugs and smuggling and trafficking of persons. Attention was drawn to the fact that, by affecting the livelihood and welfare of people and the economy of coastal States, illegal fishing might increase the likelihood of illicit activities at sea in the search for alternative livelihoods. One delegation pointed out, for example, that the routes used for irregular migration in Africa were the same as those used for illegal fishing. It was also highlighted, that as a result of their specific geographical configuration, the sovereignty and territorial integrity of small island developing States and archipelagic States was more particularly threatened by criminal activities at sea, including illegal fishing, in particular in the light of the difficulties they have in maintaining an effective patrol presence.

71. While acknowledging that some States might experience illegal fishing of a criminal nature, other delegations emphasized that illegal fishing was only one category of the activities that constituted illegal, unreported and unregulated fishing, that the latter term was often used inappropriately. Those delegations were of the view that the links that may exist between illegal fishing and some crimes committed at sea were not sufficient reason to designate illegal fishing a transnational organized crime. They observed that different types of crime were governed by various legal regimes which clearly defined and established a balance between the rights and duties of States in respect of such crimes. They noted that flag States had exclusive jurisdiction in respect of illegal, unreported and unregulated fishing on the high seas and stated that while exclusive flag State jurisdiction could be waived in order to combat threats to maritime security on the high seas, employing such a waiver to combat illegal, unreported and unregulated fishing would necessarily require recognition of the activity as a maritime security threat, which had not been established under international law.

72. With regard to investigating illegal fishing activities, it was noted that the tracking of conventional fishing vessels still presented practical difficulties since AIS requirements did not apply to them (see para. 43 above). In that respect, attention was drawn to the potential role of the voluntary International Monitoring, Control and Surveillance Network for Fisheries-related Activities. Other difficulties in investigating illegal fishing activities included those of identifying both vessel owners and beneficial owners. It was noted with regard to the use of cargo ships for the transport of illegal fish that the application of the LRIT system to such ships would greatly facilitate the tracking of illegal trans-shipments. Some delegations expressed support for increased cooperation between IMO and FAO in regard to cargo ships involved in transnational illegal fishing activities.

73. Several delegations supported further study and discussion of the potential link between illegal fishing activities and transnational organized crime.

74. As regards the potential link between intentional and unlawful damage to the marine environment and transnational organized crime, some delegations stated that pollution of the oceans could significantly damage marine ecosystems and undermine the national and economic security of the States that depend on them. Such pollution also presented a threat to other sectors. It was noted by the representatives of the United Nations Environment Programme (UNEP), the Asian-African Legal Consultative Organization and some non-governmental organizations

that not only did unlawful and intentional pollution to the marine environment present a threat to maritime security and safety but so did all types of pollution. However, one delegation expressed concern regarding the concept of environmental security, which it noted had not been accepted universally.

(c) Experiences and challenges in maritime safety

75. A number of delegations emphasized the need for States to effectively implement the existing international instruments and mandates which provide for maritime safety. It was noted that a comprehensive body of global rules and regulations, developed within the overall legal framework provided by the Convention, set out the rights and duties of States in respect of maritime safety, in particular the duties of flag States.

76. Some delegations raised concerns regarding ineffective implementation and enforcement by flag States and emphasized the need to review the current legal regime. Other delegations indicated that transparency of ownership of vessels was necessary to ensure responsibility and accountability in regard to the implementation of measures. Some delegations emphasized the need to address the issue of a genuine link. In that regard, one delegation and some representatives of non-governmental organizations called for the establishment of a United Nations committee to address the deficiencies in flag State implementation and to develop a new instrument relating to the duties of flag States. Others questioned the need for a new instrument and stated that IMO and not the United Nations was the correct body to deal with flag State implementation.

77. Some delegations indicated that greater efforts were needed to support capacity-building in order to assist States in meeting international rules and standards and eliminate areas that could be exploited by irresponsible actors. Some delegations emphasized the benefits of self-regulation and ratification campaigns in the shipping industry, the growing importance of port State control and white lists. Some delegations noted that there were many opportunities for flag States to improve their performance, including through active participation in the work of IMO, and considered that the placement of certain flag States on international white lists should be better recognized.

78. The Voluntary IMO Member Audit Scheme was highlighted by several delegations as effective in objectively assessing the implementation of mandatory IMO instruments and promoting the implementation of important instruments on maritime security and safety. A number of delegations encouraged other States to volunteer for an audit, and one delegation also encouraged the use of audits in other forums. Another delegation reported on the benefits of its own audit.

79. The importance of State participation in global and regional initiatives concerning maritime safety was underlined and reference was made to a number of tools that could be employed to improve maritime safety, such as memorandums of understanding on port State control and new technologies, including remote sensing for tracking polluters. The representative of the International Hydrographic Organization noted the importance of electronic nautical charts in improving the safety of navigation.

80. A number of delegations indicated that increased information-sharing between the security and safety sectors was key to improving maritime safety and underlined

the importance of using AIS and the LRIT system for safety purposes. The need for better information on fishing vessels was also raised, and it was suggested that it was time to reconsider whether fishing vessels should be exempt from IMO conventions relating to maritime safety.

81. Some delegations drew attention to the need to address the negative economic impacts of new maritime safety rules and standards on developing States. It was emphasized that the economic costs of new shipping standards had negatively affected their maritime trade and commercial interests.

82. Some delegations highlighted the need to promote safety of navigation, in particular cooperation among States to improve safety and the marine environment in key navigational routes. Other delegations called for user States and other stakeholders wishing to benefit from safe navigation in straits used for international navigation to cooperate in efforts to secure safety of navigation. Some delegations emphasized that it was the responsibility of littoral States to ensure security and safety in such straits. Particular attention was drawn to the efforts of littoral States, user States and other stakeholders to establish the Cooperative Mechanism for enhancing safety of navigation and environmental protection in the Straits of Malacca and Singapore in 2007. A number of delegations suggested that the Cooperative Mechanism should be viewed as an example of best practice for other regions. It was underscored by some delegations that user States and other stakeholders needed to increase their support for the Mechanism. One delegation noted the need to support the Aids to Navigation Fund, which was intended to cover the costs of services rendered or activities carried out in connection with the provision and maintenance of the identified aids to navigation.

83. The representative of UNEP highlighted the risks of changing weather patterns due to climate change on the safety of navigation. The representative of the World Conservation Union emphasized the need for States to consider, or further develop, measures for ships operating in polar regions, including the establishment of new shipping routes, guidelines for ships, marine protected areas and traffic separations schemes, and the use of AIS and the LRIT system.

84. Some delegations expressed concern regarding the environmental and economic impacts of maritime accidents, in particular those relating to the transport of radioactive materials. It was recalled that CARICOM had called for the total cessation of such shipments in Caribbean waters. One delegation expressed the view that the report of the Secretary-General did not adequately reflect the views of the States that could be most affected by the transport of radioactive materials. The need for assistance to vulnerable coastal States in respect of such shipments was emphasized by some delegations, which called for further dialogue on the transport of radioactive materials, including through relevant agencies and by the General Assembly. They also called upon the International Atomic Energy Agency to accelerate action towards the establishment of a regime to deal with liability and compensation in relation to possible incidents and accidents involving radioactive materials.

85. One delegation highlighted the need to address the negative impacts of military uses of oceans and seas on the marine environment and ecosystems (see also para. 42 above).

86. Concerning the recently adopted IMO Code of International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident, one delegation noted that the Code contained provisions that were not directly related to maritime safety and were irreconcilable with its domestic law, preventing it from making the Code mandatory for certain investigations.

(d) Focus on people at sea

(i) Safety and security issues confronting seafarers and fishers

87. It was stressed that the human element played a critical role in promoting maritime safety and security and was essential to mainstreaming a culture of safety and security in the shipping and fishing, as well as oil and gas, sectors. It was observed that poor performance in relation to the treatment of seafarers and fishers, including with respect to labour standards, working and living conditions and insufficient manning levels, affected their recruitment and retention, increased the likelihood of accidents, and therefore had a negative impact on the promotion of a secure and safe maritime environment. Some delegations noted that there were also broader impacts, including on poverty alleviation and development strategies for developing States and the efficiency of international maritime transport. Several delegations observed that remittances from professional seafarers were one of the major sources of foreign exchange. The shipping industry, which provided opportunities for employment for people from developing countries, had a role to play in development efforts and the achievement of the Millennium Development Goals.

88. The representative of FAO stated that the fishing profession was among the most dangerous in the world. The estimated number of fishers worldwide was 30 million, and the estimated fatality rate was at least 24,000 a year. Several delegations emphasized that the safety of fishers at sea was a significant concern, particularly in the case of crews on vessels engaged in illegal, unreported and unregulated fishing and for communities which fish on a subsistence basis. It was noted that traditional seafaring skills and safety measures were being eroded and small-scale fishers continued to lose their lives at sea. The importance of addressing the safety of fishing vessels and fishers was underlined. Ongoing cooperation among FAO, IMO and ILO was therefore encouraged. Some delegations also encouraged further work by FAO on the safety of fishers and fishing vessels, including through the development of an international plan of action, as had also been suggested by some delegations at the twenty-seventh session of the FAO Committee on Fisheries.

89. Several delegations underlined that States must meet their obligations in relation to manning of their ships, labour conditions, training of crew and safety at sea, in conformity with the Convention and other relevant instruments. In particular, inadequate flag State control had a direct impact on seafarers and fishers in terms of their safety, living and working conditions and the exercise of their human rights. Some delegations noted that because of a lack of capacity, developing States might not always be in a position to respond to reports of maltreatment and human rights violations of their nationals on board ships. Other delegations pointed out that transparency of ownership of vessels was essential to ensuring accountability for the implementation of security and safety measures on board vessels.

90. Several delegations emphasized the need to improve protection for seafarers and fishers against harm, in particular in the context of acts of piracy and armed robbery and other criminal activities and hazards related to dangerous working conditions. It was suggested that, for those seafarers who were subject to acts of piracy and armed robbery, provision should be made for their care and repatriation, as has been proposed, for example, in the draft regional memorandum of understanding concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean, Gulf of Aden and Red Sea.

91. Problems related to the abandonment of seafarers in ports were highlighted by some delegations. It was noted by one delegation that it was important to begin a process at IMO to develop a new instrument which would fully address that concern.

92. Several delegations observed that, in the adoption and implementation of security measures, it was important to keep in mind the unintended consequences for the people involved, such as limitations on the fundamental right of seafarers to shore leave, which affected their access to medical and welfare services, communication facilities and other services onshore.

93. Several delegations noted that training of seafarers was essential for maritime safety and security, while the increase in the size of the merchant shipping fleet was leading to a corresponding increase in demand for seafarers. In order to address the shortage of adequately trained personnel, it was proposed that more education and training centres of excellence be established (see also para. 128 below). Some delegations underlined that cooperation and coordination were essential in the context of training and education, as well as capacity-building, since the training of seafarers could be very expensive and the number of scholarships available was diminishing. Other delegations noted that the focus should not only be on education and training for seafarers but also on other relevant personnel involved in the operation of ships.

94. Several delegations underlined the importance of becoming parties to and implementing all relevant instruments in respect of maritime labour, with particular emphasis on the need for providing assistance to and capacity-building support for developing States. The representative of IMO underlined the importance of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and noted that its current review would be completed by 2010. It was noted that the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel had not yet entered into force.

95. Delegations expressed support for the work of IMO regarding training of seafarers and of ILO on improving the labour standards of seafarers. With regard to the Maritime Labour Convention, 2006, the representative of ILO indicated that it had been ratified by three States and, with the anticipated future ratifications, might enter into force in 2009. ILO also planned to adopt guidelines under that Convention on the responsibilities of flag States and on those of port States in regard to the inspection of labour conditions on board ships. It was noted that a number of flag States had taken positive steps to implement the Convention. One delegation informed the meeting that the Maritime Experts Group of the APEC Transportation Working Group was addressing issues related to the implementation of the Seafarers' Identity Documents Convention (Revised).

(ii) Treatment of persons rescued at sea

96. Delegations expressed deep concern about the continuing loss of life and situations of distress at sea that involved people who undertook perilous journeys in unseaworthy or overcrowded vessels. It was recalled that the duty to render assistance to persons in distress at sea was a fundamental obligation under international law, as reflected in the Convention, the International Convention for Safety of Life at Sea and the International Convention on Maritime Search and Rescue, 1979. It was emphasized that the obligation to provide assistance applied regardless of the nationality or status of such persons or the circumstances in which they were found.

97. Delegations called for States that had not yet done so to become parties to the above-mentioned conventions and urged States to ensure their effective implementation, in particular as regards the obligations to establish national search and rescue services and regional rescue coordination centres.

98. Reaffirming its commitment to meeting international obligations relating to rescue at sea, one delegation explained that it was not in a position to accept the 2004 amendments to the International Convention for Safety of Life at Sea, and the International Convention on Maritime Search and Rescue and the related IMO Guidelines on the Treatment of Persons Rescued at Sea, since the master of a ship who rescued people in distress was required to go to a port of the Contracting Party responsible for the region in which the rescue took place. As that port might not be the nearest, the search and rescue might cause the ship to deviate from its route and thus delay any necessary care for the rescued persons.

99. Several delegations noted that search and rescue was often a complex process, which began when a person or group of persons were in distress at sea and ended when they were delivered to a place of safety. Several actors had responsibilities in that regard, including the master of the ship, the flag State and the responsible regional coordination centre. Several delegations emphasized that priority should be given to the speedy and effective preservation of life at sea and, accordingly, there was a need for effective coordination and cooperation among States, IMO and other actors.

100. The need to minimize inconvenience (e.g., undue delay, financial burden or other difficulties) to those who provided assistance to persons in distress at sea was stressed by some delegations. It was pointed out by several delegations that the obligation of the master of the ship to provide assistance to persons in distress at sea and deliver the rescued persons to a place of safety was complemented by the obligation of States parties to the International Convention for Safety of Life at Sea and the International Convention on Maritime Search and Rescue to cooperate and coordinate their activities in order to ensure that the master of the ship providing assistance to embarking persons in distress was released from his or her obligation with minimum further deviation from the ship's intended voyage. If States failed to meet their obligations, then masters of ships might also fail to fulfil their duties. The responsible regional coordination centre and authorities should make every effort to minimize the time survivors remain onboard the assisting ship. Some delegations welcomed the ongoing work at IMO in preparing additional guidance which could be useful for the expeditious and orderly disembarkation of persons rescued at sea.

101. Several delegations considered that there was a need for capacity-building to build search and rescue capabilities. The representative of IMO reported that IMO had identified funding and provided assistance in connection with the establishment of regional coordination centres. He stated that there was a critical need to establish search and rescue facilities in Africa, and noted that Mombasa in Kenya, Cape Town in South Africa, Lagos in Nigeria and Morocco had been identified as locations for the establishment of such regional centres. One delegation reported that the regional coordination centre in Lagos served nine countries in West and Central Africa, and underlined the difficulties faced by the States in the region in establishing their own subregional centres owing to lack of funds and technical know-how.

102. The representative of the International Organization for Migration (IOM) stated that IOM offered training to law enforcement officials, maritime guards, masters of ships and other parties involved in rescue at sea operations.

103. The representative of UNHCR emphasized the need for protection of the rights of persons under international law and noted that there was a need to enhance the capacity of some States to protect refugees and asylum-seekers. One delegation urged further cooperation between UNHCR and Governments in order to strengthen national systems relating to the protection needs of refugees and asylum-seekers and to implement the principle of non-refoulement. The representative of IOM noted that the special needs of vulnerable groups, such as unaccompanied minors, women, victims of smugglers and traffickers and persons in need of medical care, must be given particular consideration during the rescue process and after disembarkation.

104. Some delegations expressed support for the ongoing initiatives at international organizations regarding the treatment of persons rescued at sea, including the work of IMO and the cooperation among IOM, UNHCR and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex). Some delegations encouraged relevant organizations to continue to cooperate in regard to rescue at sea, within the scope of their mandate. Support was expressed for the ongoing work of the inter-agency group on the treatment of persons rescued at sea.[3] One delegation proposed keeping the treatment of persons rescued at sea on the list of issues to be considered by the Consultative Process.

105. It was noted by several delegations that border protection was one aspect of addressing clandestine migration to the European Union and that respect for the rights of refugees and asylum-seekers and human rights was an integral part of the Union's policies. One delegation noted that the operations of Frontex had prevented loss of life at sea.

106. Several delegations emphasized the need for all States to take steps to prevent situations of distress at sea. In that regard, paragraph 78 of General Assembly resolution 62/215, in which the Assembly urged that action be taken by flag and port States, was recalled. It was proposed that coastal States should prevent unseaworthy vessels from sailing from their coasts, in particular by means of measures aimed at controlling small craft. It was considered that assistance and support should be

[3] The inter-agency group is comprised of the following: IMO, UNHCR, Office of the United Nations High Commissioner for Human Rights, IOM, ILO, United Nations Office on Drugs and Crime and Division for Ocean Affairs and the Law of the Sea.

provided to coastal States upon request. Some delegations provided information on the measures they were taking at the national and multilateral levels.

107. It was noted by some delegations that international migration was growing rapidly, that it was a complex phenomenon and that the root causes had to be addressed. In that regard, some delegations observed that the report of the Secretary-General did not provide an exhaustive list of the reasons for clandestine migration, which included restrictive emigration policies, famine, climate change and desertification. Long-term solutions included meeting the need for economic growth in countries of origin and destination, and ensuring that people migrated out of choice and that there were opportunities for legal migration.

108. Some delegations considered that there was a need to address all aspects of clandestine migration in an integrated and comprehensive manner, on the basis of international cooperation, including between countries of origin and destination and through addressing transnational organized crime, raising awareness in order to prevent trafficking and smuggling, protecting the victims of trafficking and assisting the reintegration of migrants into their communities. A humanitarian approach was considered a priority, together with full respect for human rights.

109. Several delegations expressed support for a continued dialogue to address migration and development, in particular through the Euro-African Partnership for Migration and Development. Some delegations referred to the recent progress made in the Caribbean region in addressing migration by sea, which included the conclusion of bilateral agreements.

(e) Maritime security and safety: enhancing cooperation, coordination and integration, and increasing capacity-building

(i) Cooperation and coordination

110. The importance of cooperation to address threats to maritime security and safety was highlighted in the light of the global impact of such threats, as was the need for increased information-sharing. Several delegations called for increased cooperation and coordination among all relevant international organizations in order to avoid the duplication of efforts.

111. Delegations highlighted the importance of regional and subregional cooperation and coordination in maritime security and safety. It was noted by some delegations that such cooperation could result in cost savings and improved implementation. It was observed that cooperation seemed to be most effective when based on regional or bilateral agreements which set forth the relative responsibilities of States. Delegations provided numerous examples of regional and subregional cooperation.

112. It was noted that the integrated coastguard network planned by MOWCA would make it possible for participating States to maximize results with limited resources by generating economies of scale in the implementation of international maritime security and safety instruments. Some delegations welcomed the draft memorandum of understanding concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean, Gulf of Aden and Red Sea, which, it was hoped, would be finalized at a high-level meeting organized under the auspices of IMO. Other delegations noted that the negotiations on the draft memorandum had yet to by concluded.

113. In addition to the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia and the Cooperative Mechanism concerning the Straits of Malacca and Singapore, it was noted that ASEAN member States cooperated through the ASEAN Maritime Forum and Regional Forum, with the latter working on convening, on a regular basis, an intersessional meeting on maritime security and establishing a regional centre on maritime security training. It was noted that APEC also provided a forum for regional cooperation.

114. It was noted that the Indian Ocean Naval Symposium had been established, inter alia, to provide a forum for dialogue on maritime security issues, to strengthen the capabilities of States to address current and anticipated future challenges, and as a framework for the establishment and promotion of a variety of consultative and coordination mechanisms.

115. It was noted that European States were cooperating on maritime security and safety issues, in particular through the European Union and Frontex which supported and coordinated border control operations.

116. It was also noted that the North Atlantic Treaty Organization (NATO) provided a forum for cooperation through joint patrols and operations, information exchange and development of maritime situational awareness.

117. It was further noted that CARICOM maintained an active focus on maritime security and safety, including through its Regional Security System, and that it had recently concluded a maritime and airspace security cooperation agreement.

(ii) Integrated approaches

118. A number of delegations highlighted the benefits of adopting an integrated approach to maritime security and safety and some reported on efforts to develop such an approach. Several delegations emphasized the need to adopt a holistic approach, including the need to take into account the human element and ensure protection of the environment. It was noted that security and safety issues were interconnected and that poor performances in regard to safety, security and working conditions were often interrelated. The representative of NATO emphasized the need for coordination of information on maritime situational awareness but also raised concerns over the protection of confidential, proprietary and business information.

119. It was noted, more generally, that there was a need for all States to develop and harmonize domestic laws and provide a legal basis to address current challenges in regard to maritime security and safety. Several delegations endorsed a whole-of-government approach to ensure coordination among all levels of government in matters relating to maritime security and safety and to make maximum use of capacity and improve efficiency. Some delegations reported on their efforts to establish a single agency to administer all issues relating to maritime safety and security.

120. The representative of MOWCA emphasized that the multiplicity of international instruments and institutional arrangements dealing with maritime safety and security could place a burden on States, in particular developing States, and indicated that there was a need for capacity-building and assistance to promote integrated approaches in the implementation of maritime security and safety measures.

121. Several delegations indicated that they were in the process of establishing a patrol network with defined joint patrolling areas, and were considering setting up an integrated network of maritime reporting and surveillance systems in the future.

(iii) Capacity-building

122. Delegations agreed that enhanced technical assistance and capacity-building with respect to maritime security and safety were required. It was recognized that availability of resources to prevent or respond to threats ultimately led to improved collective security and safety. In that regard, several capacity-building requirements were identified (e.g., see paras. 77, 93 and 101 above).

123. A number of delegations emphasized the importance of assisting developing States, particularly small island developing States, in meeting their obligations under the multitude of bilateral and multilateral instruments, including their participation in operational arrangements. Information-sharing, capacity-building, transfer of technology and the participation of developing States in research activities were therefore considered essential for effectively addressing global threats and challenges to maritime security and safety.

124. A number of delegations noted that responses to maritime security and safety challenges must incorporate institutional capacity development and take into account the human element.

125. Some delegations observed that technical cooperation and capacity-building assistance programmes must be undertaken in compliance with international law and should respect the sovereignty of States.

126. The representative of IMO outlined various technical assistance and capacity-building programmes, indicating that a mechanism for the sustained funding of programmes should be identified and that every effort should be made to avoid duplication in their delivery. Some delegations called upon States and other entities to continue to provide IMO with the resources it needed to discharge its mandate.

127. Delegations provided several examples of regional initiatives that provided opportunities for, inter alia, capacity-building, technical cooperation and sharing of information, and some expressed their willingness to share resources and expertise.

128. Several delegations underlined that regional cooperation and coordination were essential in the context of training and education. The importance of the work undertaken by the Pacific International Maritime Law Association and the Regional Maritime Programme of the Secretariat of the Pacific Community, which were actively assisting the States of the region to build legislative capacity and examine possibilities afforded by the consolidation of legislation on maritime offences, was highlighted. Reference was also made to the Maritime Studies Programme of the University of Trinidad and Tobago, which trained highly qualified officers in the most recent marine technologies. It was noted that both regional initiatives required additional support and technical assistance.

Item 4: Inter-agency cooperation and coordination

(a) Oceans and Coastal Areas Network

129. The Deputy Coordinator of the Oceans and Coastal Areas Network (UN-Oceans) informed the meeting that, at its sixth meeting held on 2 and 3 June 2008, UN-Oceans had elected Andrew Hudson, UNDP, as its Deputy Coordinator and welcomed three new members: ILO, the United Nations Industrial Development Organization and the World Tourism Organization. Other relevant United Nations organizations had also been encouraged to join. For a general presentation of the recent activities carried out by UN-Oceans, the inter-agency coordination mechanism on ocean and coastal issues within the United Nations system, delegations were referred to a summary of the activities of UN-Oceans during the period from 2005 to 2008, which contained information on the work undertaken, mainly through several ad hoc time-bound task forces, in accordance with the mandate of UN-Oceans.

130. It was reported that members of the task force on biodiversity in marine areas beyond national jurisdiction had provided input to the report of the Secretary-General, which had formed the basis for the discussions of the ad hoc open-ended informal working group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction at its second meeting, held from 28 April to 2 June 2008 and had peer reviewed a number of documents submitted to the ninth meeting of the Conference of the Parties to the Convention on Biological Diversity. Members of the task force on marine protected areas and other area-based management tools had contributed to and participated in the Conference of the Parties and would provide input to a workshop of scientific experts established to further the Convention process.

131. In addition, within the framework of the "One UN" pilot countries initiative launched in 2007, UN-Oceans, under the leadership of the Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational, Scientific and Cultural Organization, had conducted a survey of its members which carried out marine and coastal operational activities. Results had indicated the potential for synergies among United Nations agencies and UN-Oceans had agreed to continue efforts to improve coordination in that context. Work on revitalizing the UN-Oceans website would also continue. It was reported that the United Nations Atlas of the Oceans (www.oceansatlas.org) had continued to receive very positive feedback from users but financial uncertainty was threatening its sustainability and further development. States were invited to support that initiative.

132. It was underlined that the United Nations system could not achieve all of the goals entrusted to it without adequate funding and support from Member States.

133. It was stated that enhancement of cooperation and coordination was the main task of the Consultative Process. In that respect, one delegation expressed support for the work of UN-Oceans, which should be carried out in an effective, efficient, transparent, accountable and responsive manner since detailed information was important for the purposes of identifying lessons learned and improving coordination. Organizations were encouraged to conclude memorandums of understanding with a view to avoiding duplication of work and to designate focal points.

(b) Regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects

134. On behalf of the lead agencies, UNEP and IOC, the representative of UNEP provided the meeting with updated information on the start-up phase of the regular process (i.e., the "assessment of assessments"), reporting that the group of experts had been making every effort to deliver the best possible product, despite financial difficulties, within the timeline agreed by the Ad Hoc Steering Group for submission of the report to the General Assembly at its sixty-fourth session. Around 50 per cent of the planned expenditure had been met through donations of States and the lead agencies had had to provide cash contributions and increase their institutional support. Much of the work of the experts was carried out on a voluntary basis and free of charge, which would not be a feasible and sustainable scenario for the regular process itself. In view of the lack of sufficient resources to cover the costs of the remaining activities, States were invited to make financial contributions to enable the completion of the "assessment of assessments" and the preparation of the report in 2009. The remaining work to be undertaken included two meetings of the group of experts, one meeting of the Ad Hoc Steering Group, consultations by small intersessional working groups, peer review of the draft report, and preparation and publication of the final report, followed, if possible, by its translation into all official languages and the convening of seminars to launch the report. The meeting was provided with a draft progress report on the "assessment of assessments", which would constitute the basis for the open-ended midterm review by Member States called for in paragraph 93 (c) of General Assembly resolution 60/30.

135. A member of the group of experts, Alan Simcock, presented the work undertaken by the group which, he explained, had first focused on assembling and evaluating existing assessments; second, had analysed the evaluations of existing assessments; and would, as a third step, focus on a framework and options, looking at the implications for setting up a regular process. An overview of the time frame for the "assessment of assessments" was also provided, with the comment that timely execution of future activities was entirely dependent on mobilizing the necessary resources.

136. Some delegations expressed support for the work already done, despite the constraints. One delegation pledged continued financial assistance and underlined the need for more frequent provision of information to States on the progress achieved and for strengthened international cooperation in regard to capacity-building and information-sharing among States at the global and regional levels in order to support the regular process in the future. In that regard, the meeting was informed of the plan to convene a workshop later in 2008 to promote capacity-building. Several delegations indicated that, in the Pacific region, the possibility was being considered of developing an annual integrative ocean reporting process through the Secretariat of the Pacific Community. However, that initiative had not been started so as to avoid developing a reporting format that might not be compatible with the one chosen globally. The representative of the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) informed the meeting that GESAMP had established a working group which had prepared a report relating to the "assessment of assessments" and was ready to make further contributions, as necessary.

137. Some delegations referred to the regional subdivisions in the above-mentioned progress report on the "assessment of assessments", pointing to references which were not in conformity with United Nations practice. One delegation observed that the greater Caribbean region did not include all of the Gulf of Mexico. The delegation of Argentina stated that there was a recognized dispute between Argentina and the United Kingdom of Great Britain and Northern Ireland concerning the "Malvinas", "Georgia del Sur" and "Sandwich del Sur" islands. In that regard, the delegation protested some entries in the progress report regarding the south-west Atlantic Ocean and called on the "assessment of assessments" lead agencies to take its statement into account. The delegation of the United Kingdom stated that it had no doubt regarding its sovereignty over the "Falkland Islands", "South Georgia" and "South Sandwich Islands" and the surrounding maritime areas, and welcomed the continued cooperation with Argentina in the South Atlantic in the context of the "Sovereignty Umbrella" established in the United Kingdom-Argentina Joint Statement of 19 October 1989.

138. The representative of UNEP indicated that the regional subdivisions had been identified solely for the purpose of the internal work of the group of experts and that the nomenclature would be corrected in accordance with the United Nations practice.

Agenda item 5: Identification of issues for further consideration

139. It was recalled that the Co-Chairpersons had prepared a composite, streamlined list of issues that could benefit from attention in the future work of the General Assembly,[4] which remained valid. Delegations were invited to submit proposals for additional issues in writing to the Secretariat (see below).

Part C

Issues that could benefit from attention in future work of the General Assembly on oceans and the law of the sea

140. Several delegations made reference to issues that could benefit from the attention of the General Assembly and new ones were submitted in writing as possible topics for consideration in 2009. The additional issues not on the composite list circulated by the Co-Chairpersons, and submitted in writing to the Secretariat are as follows:

(a) Oceans and sustainable development: integration of all three sustainable development concerns, namely, environmental, social and economic aspects;

(b) Contribution of oceans to the achievement of internationally agreed sustainable development goals, including the Millennium Development Goals;

(c) Cooperation and coordination among flag, coastal and port States (for the purpose of effective implementation of the Convention).

[4] The list is available at www.un.org/depts/los/consultative_process/consultative_process.htm.